

**BEFORE THE
PHYSICIAN ASSISTANT BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke)
Probation Against:)
JESSICA LYNN HAMPTON, P.A.)
Physician Assistant License)
No. PA 51886)
Petitioner)
_____)

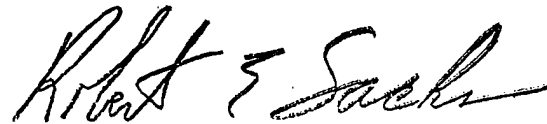
Case No. 950-2014-000285

ORDER DENYING PETITION FOR RECONSIDERATION

The Petition filed by Lindsay M. Johnson, Esq., attorney for JESSICA LYNN HAMPTON, P.A., for the reconsideration of the decision in the above-entitled matter having been read and considered by the Physician Assistant Board, is hereby denied.

This Decision remains effective at 5:00 p.m. on **August 24, 2018.**

IT IS SO ORDERED: August 23, 2018.



Robert E. Sachs, P.A., President

**BEFORE THE
PHYSICIAN ASSISTANT BOARD
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Petition to Revoke
Probation Against:**

Case No: 950-2014-000285

JESSICA LYNN HAMPTON, P.A.

**Physician Assistant
License Number PA 51886**

Petitioner

ORDER GRANTING STAY


On August 13, 2018, Lindsay M. Johnson, Esq. on behalf of Jessica Lynn Hampton, P.A., filed a Petition for Reconsideration of the Decision in this matter. The Decision was made and entered on July 17, 2018 with an effective date of August 16, 2018.

Execution is stayed until August 24, 2018.

This stay is granted solely for the purpose of allowing the Board time to evaluate and consider the Petition for Reconsideration of Decision.

DATED: August 14, 2018

PHYSICIAN ASSISTANT BOARD

By: 
Maureen L. Forsyth
Executive Officer

**BEFORE THE
PHYSICIAN ASSISTANT BOARD
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Petition to Revoke)
Probation Against:)**

Jessica Lynn Hampton, P.A.)

Case No. 950-2014-000285

**Physician Assistant License)
No. PA 51886)**

Respondent)

DECISION


The attached Proposed Decision is hereby adopted as the Decision and Order of Physician Assistant Board, Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 16, 2018.

IT IS SO ORDERED July 17, 2018.

PHYSICIAN ASSISTANT BOARD

By: _____



Robert E. Sachs, P.A., President

BEFORE THE
PHYSICIAN ASSISTANT BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke Probation
Against:

JESSICA LYNN HAMPTON, P.A.

Physician Assistant License No. PA 51886,

Respondent.

Case No. 950-2014-000285

OAH No. 2017101135

PROPOSED DECISION

This matter was heard before Administrative Law Judge Ed Washington, Office of Administrative Hearings (OAH), State of California, on May 29, 2018, in Sacramento, California.

Deputy Attorney GeneralCarolynne Evans represented Glenn L. Mitchell, Jr. (complainant), Executive Officer, Physician Assistant Board (Board), Department of Consumer Affairs.

Attorney Paul Chan represented Jessica Lynn Hampton (respondent).

Evidence was received, the record was closed, and this matter was submitted for decision on May 29, 2018.

FACTUAL FINDINGS

The Stipulation and Order

1. On April 8, 2014, respondent submitted an application to the Board for a physician assistant license. On June 19, 2014, respondent signed a Stipulation for a Probationary License (Stipulation and Order), which the Board adopted as its decision, effective September 5, 2014. As a condition of the Stipulation and Order, respondent admitted that in 2013, she was convicted of violating Vehicle Code section 23152 (driving while under the influence of alcohol). The report of the arresting officer reflects that, on February 17, 2013, at approximately 2:00 a.m., California Highway Patrol Officers stopped

respondent for driving erratically. Respondent told the officers that she had recently consumed alcohol at a party and consented to complete preliminary alcohol screening tests. Two preliminary alcohol screening tests performed at the scene measured respondent's blood alcohol content as .163 percent and .156 percent.

2. On September 5, 2014, pursuant to the Stipulation and Order, the Board denied respondent's application for an unrestricted license, and instead issued Physician Assistant License No. PA 51886 (probationary license) to respondent, subject to certain terms and conditions. This license is current and will expire on August 31, 2018, unless renewed or revoked.

3. On August 31, 2016, complainant filed the Petition to Revoke Probation (Petition) in his official capacity.¹ Respondent filed a timely appeal.

Stipulated Facts

4. On May 12, 2018, the parties executed a Stipulation of Undisputed Facts, agreeing that the following facts are not disputed:

1. In an action titled In the Matter of the Application of Jessica Lynn Hampton, Case Number 950-2014-000285, the Board issued a decision, effective September 5, 2014, in which respondent was issued a probationary physician assistant license for a period of two years, with certain terms and conditions.
2. At all times after the effective date of respondent's probation, Condition Three stated: 'Respondent shall abstain completely from the use of products or beverages containing alcohol.'
3. At all times after the effective date of respondent's probation, Condition Four stated: 'Respondent shall immediately submit to biological fluid testing upon the request of the Board or its designee. Respondent shall pay the cost of biological fluid testing.'
4. Respondent's probation is subject to revocation because she failed to comply with Probation Condition Three and Probation Condition Four. The facts and circumstances regarding these violations are as follows:
 - i. On or about December 5, 2014, respondent submitted a urine sample for toxicology testing. The results of the toxicology testing were positive for Ethyl Glucuronide and Ethyl Sulfate 892/118 ng/ml (cut-off: 250/50 ng/ml).

¹ At hearing, complainant amended the Petition to Revoke Probation as follows: (1) page 5, paragraph 16, of the Petition was deleted; and (2) on Page 5, paragraph 21, the word "Phosphaidyl" was replaced with "Phosphatidyl."

- ii. Respondent was notified that the positive result was a violation of probation Condition Three, in a letter dated December 18, 2014.
- iii. Respondent reported to the Board that she had been ill and was taking “Dayquil” and “Nyquil” for her symptoms.
- iv. On or about January 19, 2015, respondent submitted a urine sample for toxicology testing. The results of the toxicology testing were negative and dilute.
- v. A dilute urine toxicology test has a higher than average water content. This means that the urine sample is diluted, minimizing the amount of alcohol detectable in the sample.
- vi. On or about February 5, 2016, respondent submitted a urine sample for toxicology testing. The results of the toxicology testing were negative and dilute.
- vii. On or about February 14, 2016, respondent was scheduled to submit a urine sample for toxicology testing. Respondent did not submit a urine sample on this date. A missed test is considered a positive test.
- viii. On or about February 26, 2016, respondent submitted a urine sample for toxicology testing. The results of the toxicology testing were negative and dilute.
- ix. On March 7, 2016, respondent was notified that the two negative and dilute results of January [19], 201[5], and February 5, 2016, and the missed test of February 14, 2016, were violations of probation Condition Four.²
- x. On or about March 14, 2016, respondent underwent a Phosphatidylethanol (PEth test) test for detection of alcohol in the blood. It is a direct biomarker, which forms after an individual consumes alcohol. A positive PEth result is 20 ng/ml or above. Respondents PEth result was 129.8 ng/ml, positive for the presence of alcohol.
- xi. On March 23, 2016, respondent was notified that the [March 14, 2016] PEth test was positive for alcohol and that she was in violation of probation Condition Three.

² The Stipulation of Undisputed Facts specifies that on January 17, 2016 respondent submitted a urine sample for toxicology testing that tested negative and dilute. The evidence established that this occurred on January 19, 2015, rather than January 17, 2016.

- xii. On or about July 14, 2016, respondent underwent a Phosphatidylethanol test for detection of alcohol in the blood. Her PEth result was 192.6 ng/ml, positive for the presence of alcohol.

Respondent's Written Explanations to the Board

5. By way of a letter, dated December 27, 2014, respondent submitted an explanation to the Board stating the reasons for her positive test of December 5, 2014. In that letter, respondent explained that she was "sick with a cold and was taking Dayquil and Nyquil for [her] symptoms [and] was unaware that the cough medication . . . could cause [her to have] a positive alcohol test." Respondent's letter also included the following additional statements:

I spoke with a physician representing First Lab who informed me that anything with even alcohol as a byproduct may cause a positive result. I had no idea these urine tests were [sensitive], however very unspecific. I am now aware of these tests being random for the presence of anything, however this has caused me so [much] concern regarding the legitimacy of these tests and how the Board is basing my career on a test that cannot decipher cough medication from liquor. At this point I feel like anything may cause a positive result. I have read through the list [of common substances containing alcohol] and will be more vigilant regarding any medications or food I consume.

6. By way of a letter, dated February 11, 2016, respondent submitted an explanation to the Board specifying the reasons her January 19 and February 5, 2016 urine samples tested negative but dilute. This letter includes the following explanation:

[D]ue to the nature of random testing I am unable to plan accordingly to miss almost a half day of work for a urine drug test without having to reschedule between 10-15 patients.

[T]o continue to be in compliance with the terms of my probation without sacrificing patient care, I have to arrive . . . before [the testing facility is] open and wait for them to open in order to submit a sample. . . . I have to drink water throughout the morning in order to provide an adequate sample. . . . I do not calculate the amount of water I consume in order to provide a urine sample, nor am I able to determine an appropriate amount of water to consume to provide urine at a certain time with a specified amount. I have no intentions of undermining this process and wish to remain compliant. I have remained in compliance with the terms of my probation with limited resources and intend to continue to adhere to the requirements.

I will submit urine samples as requested to the best of my ability in order to remain compliant with the terms of my probation.

7. On February 28, 2016, respondent provided a written explanation to the Board regarding her February 26, 2016 toxicology test, which again resulted in test findings that were negative but dilute. This written explanation includes the following information:

I went to leave a sample in the morning [and] knew the sample was going to come out dilute again because my urine was very clear when I gave my sample. . . . I wanted to . . . leave an additional sample in the afternoon . . . I ended up canceling my last appointments and went back in to leave a second sample. So for [the February 26, 2016] test I had them send in two samples. I would like both [samples] tested so there is no issue with the dilution of the sample. I am lost as to what to do regarding the dilute samples. . . . I am not trying to undermine the process, I just have to drink water to leave an adequate sample in the mornings.

8. On July 27, 2016, respondent provided a written explanation to the Board to explain her July 14, 2016 positive PEth test for alcohol. Respondent denied that she failed to abstain from alcohol, and provided the following explanation:

I have abstained from alcohol use and any products containing alcohol as required based on the terms of my probation and will continue to abstain from alcohol use and products. I wish to remain in compliance with the terms of my probation until completion.

Respondent's Testimony

9. Respondent testified at hearing. She has worked as a physician assistant for Golden Valley Health Center, in Modesto, California, since September 2014. She works under a supervising physician, but has her own patient panel. Golden Valley Health Center primarily services a low income immigrant farm worker patient population.

10. In 2013, respondent drove while under the influence of alcohol. She was out celebrating her sister-in-law's birthday and consumed alcohol. Respondent testified that at the time of her arrest her blood alcohol content measured "around .09 percent." As a result of her conviction, respondent completed a DUI program and performed community service.

11. As a condition of the Stipulation and Order, the Board required respondent to enroll and participate in a diversion program until the program determined treatment and rehabilitation were no longer necessary. Respondent was evaluated for substance abuse as part of the diversion program. The evaluator determined that respondent had no substance

abuse disorder and that it was unnecessary for respondent to attend an alcohol treatment program.

12. Prior to beginning probation, respondent met with her probation monitor to discuss the terms and conditions of her probation. Respondent asserted that she was not aware that she would have to be available to submit to biological fluid testing every day of the year. She also asserted that she was not provided any materials or information related to dilute test samples, but understood that the more water she drank the more likely her urine sample would measure as diluted.

13. Although respondent was pleased to receive her probationary license in September 2014, she was resentful of the restrictive nature of the terms and conditions of her probation. Prior to receiving her license, respondent would consume alcohol on weekends and when attending social events. Her alcohol consumption consisted of between two to four glasses of wine per occasion.

14. Respondent altered her lifestyle to abstain from alcohol. She attended fewer social events and did not go out with her husband as much, to avoid environments where alcohol consumption was commonplace.

15. Respondent reiterated that her positive test for alcohol on December 5, 2014, resulted from her ingestion of Dayquil and Nyquil for "five or six days straight" prior to testing. She did not review the contents of the bottles to determine if the products contained alcohol prior to ingesting them. Respondent testified that she was not aware that Dayquil, Nyquil, or other over-the-counter medications could cause her to test positive for alcohol.

16. Respondent testified that each of her dilute urine samples was caused by a "fitness journey" she began while on probation, which required her to maintain "a clean diet" and consume at least three liters of water each day. She now drinks coffee and less water to reduce the dilution of her urine samples.

17. In March 2016, respondent went to Thailand on a vacation for approximately 10 days. The Board relieved respondent of her obligation to make herself available for biological fluid testing during the 10 days she was out of the country. All other conditions of respondent's probation remained in effect, including the requirement that she abstain from the consumption of alcohol.

18. While in Thailand, respondent had a "severe lapse in judgment." She consumed as many as three alcoholic drinks her first evening in Thailand and "had a few [alcoholic] drinks" on at least two other occasions while vacationing. Respondent submitted to biological fluid testing the day after she returned from Thailand and tested positive for alcohol. She submitted a letter of explanation shortly thereafter, in which she falsely claimed she consumed no alcoholic beverages or substances containing alcohol while out of the country. Respondent testified that she lied to the Board to protect her license and continue

practicing. She added that she recognizes it was a mistake to lie to the Board about her alcohol consumption.

19. In July 2016, respondent traveled to Cabo San Lucas (Cabo) for a week. She provided the Board with advanced notice and made arrangements to ensure she could submit to biological fluid testing while traveling. Respondent consumed alcohol on two occasions while in Cabo, because she was “coming to the end of probation,” was “on vacation,” and “wanted to enjoy herself.” She also drank because she “wanted to socially enjoy [her] time with [her] husband without the added pressure [to abstain from consuming alcohol] due to [her] probation.”

20. On July 14, 2016, after returning from her vacation in Cabo, respondent submitted to a PEth test at the request of the Board. The result of the test was positive for alcohol consumption. On July 26, 2016, respondent submitted a letter of explanation to the Board in which she denied any recent alcohol consumption. Respondent described her false statement to the Board as “a lie” and “more poor judgment” by her.

21. Respondent testified that she has not consumed alcohol since July 2016. She does not believe she has an alcohol abuse problem. Respondent traveled out of the country, with Board approval, for vacation in September 2016, January 2017, September 2017, and March 2018. She did not test positive for alcohol use following any of those trips. She testified that she understands the Board’s concern regarding her DUI conviction, alcohol consumption, and probation violations. She asserted that she has changed, recognizes the consequences of her actions and wants to continue to engage in the occupation she loves.

22. To ensure that she remains compliant with the terms of probation, respondent focuses on self-improvement. She completed a 10-month “Beautiful Warrior” program through her church, which focuses on spirituality and fellowship. She is upfront with her friends and family about her commitment to abstain from alcohol consumption, and she continues to invest in her work as a physician assistant. She has satisfied all continuing education requirements for her position.

Testimony of James Ferguson, D.O.

23. James Ferguson, D.O., testified at hearing. He is a doctor of osteopathic medicine, who focuses on addictive medicine. He is currently the Medical Director for FirstLabs, Inc. He has worked as a Chief Medical Review Officer for Verifications, Inc., in Minneapolis, Minnesota. As a medical review officer, he read and interpreted laboratory findings related to a variety of drug test instruments; typically as part of a drug or alcohol compliance program. Dr. Ferguson also works as a consultant for the Medical Board and Physician Assistant Board and has provided consulting services in “hundreds” of drug and alcohol compliance cases.

24. Dr. Ferguson was retained to review respondent’s March 23, 2016 and July 14, 2016 PEth test results to determine whether the results were consistent with alcohol

consumption. Dr. Ferguson testified that PEth tests are highly reliable blood tests to confirm the presence of the direct alcohol biomarker PEth, which is consistent with alcohol ingestion in the two to four week period before the blood was drawn. After reviewing the results of the tests, it was Dr. Ferguson's opinion that both PEth test results were consistent with alcohol consumption and that those test results indicate significant alcohol consumption during the period immediately preceding the test.

Testimony of Colleen Moore, M.F.T.

25. Colleen Moore testified at hearing. She is a Licensed Marriage and Family Therapist, and a Master Addiction Counselor. She is also certified as an Addiction-Free Pain Management Specialist. Ms. Moore's private practice includes completing substance abuse evaluations, which she has performed regularly for the past 20 years.

26. Respondent retained Ms. Moore to perform a forensic alcohol use evaluation on her and determine whether she had an "alcohol use substance disorder" or abused alcohol. In January 2018, Ms. Moore met with respondent to perform this evaluation. She interviewed respondent and reviewed several documents during her evaluation. This included each of respondent's letters of explanation to the Board, the substance abuse evaluation respondent received as a component of her Board probation, respondent's positive biological fluid test results, four letters of support, and the Board's Petition. Ms. Moore also reviewed respondent's family history and alcohol use history and completed diagnostic testing.

27. After completing her evaluation, Ms. Moore concluded there was no evidence that respondent had an alcohol use disorder, as defined in the Diagnostic and Statistical Manual for Mental Disorders, Fifth Edition (DSM-5). Ms. Moore opined that the positive alcohol tests while on probation "could point to an alcohol use disorder." However, those test results alone could not support an alcohol use disorder diagnosis, based on the established criteria in the DSM-5.

Respondent's Supportive Documents

28. Respondent submitted copies of five character reference letters from colleagues and friends, all attesting to her professionalism, work ethic, and positive relationships with colleagues, patients, and their families. Respondent also submitted two performance evaluations from Golden Valley Health Center, dated March 9, 2015, and January 24, 2017, which reflect that respondent met or exceeded her job expectations during the review periods covered by those evaluations. These documents were received in evidence as administrative hearsay and considered to the extent permitted by Government Code section 11513, subdivision (d).

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Discussion

29. Complainant established that respondent, on multiple occasions, violated the terms and conditions of her probation. Respondent was given the opportunity to work as a physician assistant, subject to certain terms and conditions, after being convicted of DUI less than a year prior to applying to the Board. She read, understood, and signed the Stipulation and Order and agreed to comply with its terms, which included abstinence from the consumption of alcohol. Thereafter, she continued to consume alcohol at her leisure. Either purposefully or through her own carelessness, respondent jeopardized the integrity of the random drug testing process by submitting diluted urine samples on at least three occasions. When her continued use of alcohol was discovered by the Board, she lied to the Board on multiple occasions in an attempt to conceal her noncompliance, despite clear evidence that she continued to consume alcohol. Respondent's failure to comply with the terms of the Stipulation and Order and her dishonesty in response to the Board's discovery of her noncompliance are concerning. The Board relies upon its licensees to be honest and truthful in all their dealings with patients, doctors, employers, the public and the Board. Respondent's dishonesty was contrary to the reasonable expectations of the Board and cannot be condoned.

30. Respondent failed to demonstrate sufficient rehabilitation to show it would be consistent with the public health, safety and welfare to allow her to retain her license. At hearing, respondent acknowledged her multiple failures to comply with her probation and her dishonesty with the Board. However, she failed to fully accept responsibility for her actions. She minimized her 2013 DUI conviction by asserting her blood alcohol level was "about .09" percent, when the actual measurements were .163 and .156 percent. Although both respondent and Ms. Moore testified that she has no alcohol abuse disorder, it is concerning that she sometimes finds it difficult to "enjoy herself" without consuming alcohol and feels "pressured" when refraining from alcohol due to her probation. Respondent provided no real assurances that she would not use alcohol in the future at her leisure and lie about it. She asserted she has changed, now recognizes the consequences of her actions, and wants to continue to engage in her occupation. However, there was no evidence to support that respondent currently possesses any insight into her behavior that she did not possess when she signed the Stipulation and Order in 2014 and agreed to comply with its terms. She produced favorable supportive letters and performance evaluations, which reflect that she is a valued, compassionate and committed professional. She also provided proof of completion of continuing education in her field. While respondent's commitment to her profession is commendable, these documents are insufficient to demonstrate sufficient rehabilitation to retain her license, considering her multiple probation violations and dishonesty with the Board.

31. In sum, complainant established a basis to revoke respondent's probationary license and respondent's evidence of rehabilitation was insufficient to overcome her repeated probation violations and dishonesty. In order to protect the public health, safety and welfare, respondent's probationary license must be revoked.

Recoverable Costs

32. Pursuant to Business and Professions Code section 125.3, complainant has requested that respondent be ordered to pay the Board its reasonable cost of the investigation and enforcement of the case. Complainant submitted a Certification of Prosecution Costs and a Declaration of the Deputy Attorney General which showed that the Office of the Attorney General has billed \$6,436.75 for the time spent working on this matter. Attached to the Certification is a printout detailing the work performed by the Office of the Attorney General in prosecuting this matter.

33. The Stipulation and Order does not contain a cost recovery provision. Business and Professions Code section 125.3 provides, in pertinent part, that the administrative law judge “may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.” The Petition is premised on violations of the Stipulation and Order. Complainant established that respondent violated the conditions of her probation. However, complainant did not establish that respondent committed violations of the licensing act. Accordingly, there is no basis for an award of costs relating to the investigation and enforcement of the Petition.

LEGAL CONCLUSIONS

1. Cause exists to revoke respondent’s probationary license and re-impose the order denying her application for an unrestricted license as a physician assistant by reason of the matters set forth in Findings 1 through 24, and 28 through 31. Respondent has failed to comply with Condition Three and Condition Four of her probation, as specified in the Stipulation and Order, on multiple occasions. On at least two occasions when respondent’s noncompliance was discovered, she attempted to conceal her noncompliance by being dishonest with the Board in her letters of explanation.

2. The matters set forth in Findings 29 through 31 were considered in making the following order. Complainant established that it would not be in the public interest to allow respondent to continue on probation at this time.

3. Complainant has requested that respondent be directed to pay \$6,436.75 for investigation and enforcement costs in this matter. Business and Professions Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. As set forth in Finding 33, the Stipulation and Order does not contain a cost recovery provision and complainant did not establish that respondent committed a violation of the licensing act. Accordingly, complainant may not recover the cost of its investigation and enforcement of the instant Petition.

ORDER

The stay of the denial of respondent's application for an unrestricted license is lifted. The probationary license granted by the Physician Assistant Board pursuant to its September 5, 2014 Stipulation and Order (Case No. 950-2014-000285) is REVOKED.

DATED: June 27, 2018

DocuSigned by:
Ed Washington
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ED WASHINGTON
Administrative Law Judge
Office of Administrative Hearings

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BEFORE THE
PHYSICIAN ASSISTANT BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke
Probation Against:

Case No. 950-2014-000285

JESSICA LYNN HAMPTON, P.A.
2721 Deerfield Place
Modesto, CA 95355-4670
Physician Assistant License No. PA 51886,

PETITION TO REVOKE PROBATION

Respondent.

Complainant alleges:

PARTIES

1. Glenn L. Mitchell, Jr. (Complainant) brings this Petition to Revoke Probation solely in his official capacity as the Executive Officer of the Physician Assistant Board, Department of Consumer Affairs.

2. On or about September 5, 2014, the Physician Assistant Board issued Physician Assistant License Number PA 51886 to Jessica Lynn Hampton, P.A. (Respondent). The Physician Assistant License was in effect at all times relevant to the charges brought herein and will expire on August 31, 2018, unless renewed.

3. In an action entitled *In the Matter of the Application of Jessica Lynn Hampton*, case no. 950-2014-000285, the Physician Assistant Board, issued a decision, effective September 5, 2014, in which Respondent was issued a probationary physician assistant license for a period of

1 two years, with certain terms and conditions. A copy of that decision is attached as Exhibit A and
2 is incorporated by reference.

3 JURISDICTION

4 4. This Petition to Revoke Probation is brought before the Physician Assistant Board
5 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code unless otherwise indicated.

7 5. Section 3527 of the Code states:

8 “(a) The board may order the denial of an application for, or the issuance subject to terms
9 and conditions of, or the suspension or revocation of, or the imposition of probationary conditions
10 upon a physician assistant license after a hearing as required in Section 3528 for unprofessional
11 conduct which includes, but is not limited to, a violation of this chapter, a violation of the
12 Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board
13 of California.

14 “(b) The board may order the denial of an application for, or the suspension or revocation
15 of, or the imposition of probationary conditions upon, an approved program after a hearing as
16 required in Section 3528 for a violation of this chapter or the regulations adopted pursuant
17 thereto.

18 “(c) The Medical Board of California may order the denial of an application for, or the
19 issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition
20 of probationary conditions upon, an approval to supervise a physician assistant, after a hearing as
21 required in Section 3528, for unprofessional conduct, which includes, but is not limited to, a
22 violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations
23 adopted by the board or the Medical Board of California.

24 “(d) Notwithstanding subdivision (c), the Division of Medical Quality of the Medical
25 Board of California, in conjunction with an action it has commenced against a physician and
26 surgeon, may, in its own discretion and without the concurrence of the Medical Board of
27 California, order the suspension or revocation of, or the imposition of probationary conditions
28 upon, an approval to supervise a physician assistant, after a hearing as required in Section 3528,

1 for unprofessional conduct, which includes, but is not limited to, a violation of this chapter, a
2 violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the
3 Medical Board of California.

4 “(e) The board may order the denial of an application for, or the suspension or revocation
5 of, or the imposition of probationary conditions upon, a physician assistant license, after a hearing
6 as required in Section 3528 for unprofessional conduct which includes, except for good cause, the
7 knowing failure of a licensee to protect patients by failing to follow infection control guidelines of
8 the board, thereby risking transmission of blood-borne infectious diseases from licensee to
9 patient, from patient to patient, and from patient to licensee. In administering this subdivision,
10 the board shall consider referencing the standards, regulations, and guidelines of the State
11 Department of Health developed pursuant to Section 1250.11 of the Health and Safety Code and
12 the standards, regulations, and guidelines pursuant to the California Occupational Safety and
13 Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for
14 preventing the transmission of HIV, Hepatitis B, and other blood-borne pathogens in health care
15 settings. As necessary, the committee shall consult with the Medical Board of California, the
16 Board of Podiatric Medicine, the Board of Dental Examiners, the Board of Registered Nursing,
17 and the Board of Vocational Nurse and Psychiatric Technicians, to encourage appropriate
18 consistency in the implementation of this subdivision.

19 “The board shall seek to ensure that licensees are informed of the responsibility of licensees
20 and others to follow infection control guidelines, and of the most recent scientifically recognized
21 safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

22 “(f) The board may order the licensee to pay the costs of monitoring the probationary
23 conditions imposed on the license.

24 “(g) The expiration, cancellation, forfeiture, or suspension of a physician assistant license
25 by operation of law or by order or decision of the board or a court of law, the placement of a
26 license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive
27 the board of jurisdiction to commence or proceed with any investigation of, or action or
28 disciplinary proceeding against, the licensee or to render a decision suspending or revoking the

1 license.”

2 6. California Code of Regulations, title 16, section 1399.521 states:

3 “In addition to the grounds set forth in section 3527, subdivision (a), of the Code, the board
4 may deny, issue subject to terms and conditions, suspend, revoke or place on probation a
5 physician assistant for the following causes: (a) Any violation of the State Medical Practice Act
6 which would constitute unprofessional conduct for a physician and surgeon. (b) Using fraud or
7 deception in passing an examination administered or approved by the board. (c) Practicing as a
8 physician assistant under a physician who has been prohibited by the Medical Board of California
9 or the Osteopathic Medical Board of California from supervising physician assistants. (d)
10 Performing medical tasks which exceed the scope of practice of a physician assistant as
11 prescribed in these regulations.”

12 **COST RECOVERY**

13 7. Section 125.3 of the Code states, in pertinent part, that the Board may request the
14 administrative law judge to direct a licensee found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case.

17 **CAUSE TO REVOKE PROBATION**

18 **(Failure to Abstain from the Use of Alcohol)**

19 8. At all times after the effective date of Respondent’s probation, Condition Three
20 stated:

21 “Respondent shall abstain completely from the use of products or beverages containing
22 alcohol.”

23 9. Further, at all times after the effective date of Respondent’s probation, Condition Four
24 stated:

25 “Respondent shall immediately submit to biological fluid testing upon the request of the
26 board or its designee. Respondent shall pay the cost of biological fluid testing.”
27
28

1 10. Respondent's probation is subject to revocation because she failed to comply with
2 Probation Condition 3 and Probation Condition 4, referenced above. The facts and circumstances
3 regarding these violations are as follows:

4 11. On or about December 5, 2014, Respondent submitted a urine sample for toxicology
5 testing. The results of the toxicology testing were positive for Ethylglucuronide and Ethylsulfate
6 892/118 ng/mL (cut-off: 250/50 ng/mL).

7 12. Respondent was notified that the positive result was a violation of probation, term
8 number three in a letter dated December 18, 2014.

9 13. Respondent reported to the Board that she had been ill and was taking "Dayquil" and
10 "NyQuil" for her symptoms.

11 14. On or about January 19, 2015, Respondent submitted a urine sample for toxicology
12 testing. The results of the toxicology testing were negative and dilute.

13 15. A dilute urine toxicology test has a higher than average water content. This means
14 that the urine sample is diluted, minimizing the amount of alcohol detectable in the sample.

15 16. On or about January 17, 2016, Respondent submitted a urine sample for toxicology
16 testing. The results of the toxicology testing were negative and dilute.

17 17. On or about February 5, 2016, Respondent submitted a urine sample for toxicology
18 testing. The results of the toxicology testing were negative and dilute.

19 18. On or about February 14, 2016, Respondent was scheduled to submit a urine sample
20 for toxicology testing. Respondent did not submit a urine sample on this date. A missed test is
21 considered a positive test.

22 19. On or about February 26, 2016, Respondent submitted a urine sample for toxicology
23 testing. The results of the toxicology testing were negative and dilute.

24 20. On March 7, 2016, Respondent was notified that the two negative and dilute results of
25 January 17, 2016 and February 5, 2016, and the missed test of February 14, 2016, were a violation
26 of probation, term number four.

27 21. On or about March 14, 2016, Respondent underwent a Phosphatidyl Ethanol (PEth
28 test) test for detection of alcohol in the blood. It is a direct biomarker, which forms after an

1 individual consumes alcohol. A positive PEth result is 20ng/mL or above. Respondent's PEth
2 result was 129.8ng/mL, positive for the presence of alcohol.

3 22. On March 23, 2016, Respondent was notified that the PEth test was positive for
4 alcohol and that she was in violation of probation, term number three.

5 23. On or about July 14, 2016, Respondent underwent a Phosphatidyl Ethanol test for
6 detection of alcohol in the blood. Her PEth test result was 192.6 ng/mL, positive for the presence
7 of alcohol.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Physician Assistant Board issue a decision:

11 1. Revoking the probation that was granted by the Physician Assistant Board in Case
12 No. 950-2014-000285 and imposing the disciplinary order that was stayed thereby revoking
13 Physician Assistant License No. PA 51886 issued to JESSICA LYNN HAMPTON, P.A.;

14 2. Revoking or suspending Physician Assistant License No. PA 51886, issued to
15 JESSICA LYNN HAMPTON, P.A.;

16 3. Ordering Respondent to pay the Board the costs of the investigation and enforcement
17 of this case, and if probation is continued or extended, the costs of probation monitoring; and

18 4. Taking such other and further action as deemed necessary and proper.

19
20
21 DATED: August 31, 2016



22 GLENN L. MITCHELL, JR.
23 Executive Officer
24 Physician Assistant Board
25 Department of Consumer Affairs
26 State of California
27 Complainant
28

LA2016502807

Exhibit A

Decision and Order

Physician Assistant Board Case No. 950-2014-000285

BEFORE THE
PHYSICIAN ASSISTANT BOARD
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Application of:)
JESSICA LYNN HAMPTON)
For a Physician Assistant)
License)
Applicant.)

Case No: 950-2014-000285

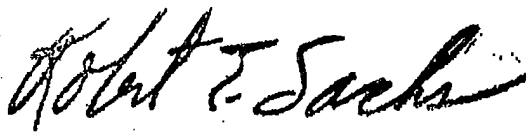
DECISION AND ORDER

The attached Stipulation for a Probationary License is hereby accepted and adopted as the Decision and Order by the Physician Assistant Board, Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 5, 2014 and the license will only be issued and probation to commence upon completion of any remaining requirements for licensure.

ORDERED: August 7, 2014.

PHYSICIAN ASSISTANT BOARD



Robert E. Sachs, P.A., President

BEFORE THE
PHYSICIAN ASSISTANT BOARD
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Application of:)

Jessica Lynn Hampton)

For a Physician Assistant
License)

STIPULATION FOR A
PROBATIONARY LICENSE

Jessica Lynn Hampton, applicant for a physician assistant license (hereafter applicant or respondent), and Glenn L. Mitchell, Jr., Executive Officer, Physician Assistant Board, hereby stipulate as follows:

- 1) This applicant is a May 2014 graduate of the Touro University California joint MSPAS/MPH Program. She is not licensed to practice as a physician assistant in any state.
- 2) On April 8, 2014, the applicant submitted an application for physician assistant licensure to the Physician Assistant Board. Question 19a on the application asked: *"Have you ever been convicted or pled nolo contendere to any violation (including misdemeanor or felony) of any local, state, or federal law in any state, territory, country, or U.S. federal jurisdiction?"* The applicant checked the box marked "yes" next to Question 19a, and signed her application on April 2, 2014, attesting that she had read the complete application and declared that all of the information contained in her application was true and correct.
- 3) The applicant was convicted in 2013 of violation of California Vehicle Code Section 23152(a) – driving under the influence of alcohol.
- 4) Section 480(a) of the Business and Professions Code states that a board may deny a license on the grounds that the applicant has one of the following: (1) Been convicted of a crime...; (2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or (3) Done any act which if done by a licensee of the business or profession in question would be grounds for suspension or revocation of license... The above findings support a conclusion that grounds for denial exist pursuant to Sections 480(a)(1) and (a)(3).

5) Section 3527(a) of the Business and Professions Code states that the board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician assistant license after a hearing as required in Section 3528 for unprofessional conduct which includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California.

6) Under Section 3519.5 of the Business and Professions Code, the Physician Assistant Board has the discretionary authority to issue a probationary license on terms and conditions. This Stipulation reflects the staff's recommendation to the Board itself.

7) The applicant acknowledges she has a right to request a Statement of Issues and hearing upon denial of licensure for cause. Applicant waives her right to a hearing and judicial review in favor of this Stipulation for a Probationary License.

8) This Stipulation shall be subject to approval by the Board. Respondent understands and agrees that the staff of the Physician Assistant Board may communicate directly with the Board regarding this Stipulation without notice to or participation by respondent or counsel. By signing the Stipulation, respondent understands and agrees that she may not withdraw her agreement or seek to rescind the Stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this Stipulation as its Decision and Order, the Probationary License shall be of no force or effect (except for this paragraph) and shall be inadmissible in any legal action between the parties. Further, the Board shall not be disqualified from further action by having considered this matter.

The staff and applicant agree that a probationary license be issued as follows:

ORDER

1) The application of Jessica Lynn Hampton for an unrestricted license as a physician assistant is hereby denied. However, a probationary license shall be issued to respondent subject to the following terms and conditions.

Respondent is placed on probation for two years, or until respondent is successfully discharged from the Diversion Program plus one year, whichever is longer, beginning on the date respondent is issued a probationary license.

2) Drugs - Abstain from Use

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined by Section 4211 of the Business and Professions Code, or any drugs requiring a prescription.

This condition does not apply to medications lawfully prescribed to respondent for a bona fide illness or condition by another practitioner. However, within 15 calendar days of receiving any lawful prescription medications, respondent shall notify the board or its designee of the issuing practitioner's name, address, telephone number, medication name, strength, issuing pharmacy name, address, and telephone number.

3) Alcohol - Abstain from Use

Respondent shall abstain completely from the use of products or beverages containing alcohol.

4) Biological Fluid Testing

Respondent shall immediately submit to biological fluid testing upon the request of the board or its designee. Respondent shall pay the cost of biological fluid testing.

5) Diversion Program

Within 30 days of the effective date of this decision, respondent shall enroll and participate in the board's Diversion Program until the program determines that further treatment and rehabilitation is no longer necessary. Respondent shall successfully complete the program. The program determines whether or not respondent successfully completes the program.

Respondent shall pay all costs of the program, including, but not limited to the participation fee, biological fluid test collection and sampling fees, support group fees, or subsequent evaluations.

If the program determines that respondent is a danger to the public, upon notification from the program, respondent shall immediately cease practicing as a physician assistant until notified in writing by the board or its designee that respondent may resume practice. The period of time that respondent is not practicing shall not be counted toward completion of the term of probation.

6) Approval of Supervising Physician

Within 30 days of the effective date of this decision, respondent shall submit to the board or its designee for its prior approval the name and license number of the supervising physician and a practice plan detailing the nature and frequency of supervision to be provided. Respondent shall not practice until the supervising physician and practice plan are approved by the board or its designee.

Respondent shall have the supervising physician submit quarterly reports to the board or its designee.

If the supervising physician resigns or is no longer available, respondent shall, within 15 days, submit the name and license number of a new supervising physician for approval.

7) Notification of Employer and Supervising Physician

Respondent shall notify her current and any subsequent employer and supervising physician(s) of the discipline and provide a copy of the accusation, decision, and order to each employer and supervising physician(s) during her period of probation, at onset of that employment. Respondent shall ensure that each employer informs the board or its designee, in writing within 30 days, verifying that the employer and supervising physician(s) have received a copy of Accusation, Decision, and Order.

8) Obey All Laws

Respondent shall obey all federal, state, and local laws, and all rules governing the practice of medicine as a physician assistant in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

9) Quarterly Reports

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the board or its designee, stating whether there has been compliance with all the conditions of probation.

10) Other Probation Requirements

Respondent shall comply with the board's probation unit. Respondent shall, at all times, keep the board and probation unit informed of respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the board and probation unit. Under no circumstances shall a post office box serve as an address of record, except as allowed by California Code of Regulations 1399.523.

Respondent shall appear in person for an initial probation interview with or its designee within 90 days of the decision. Respondent shall attend the initial interview at a time and place determined by the board or its designee.

Respondent shall, at all times, maintain a current and renewed physician assistant license.

Respondent shall also immediately inform probation unit, in writing, of any travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) days.

11) Interview with Medical Consultant

Respondent shall appear in person for interviews with the board's medical or expert physician assistant consultant upon request at various intervals and with reasonable notice.

12) Tolling for Out-of-State Practice or Residence

The period of probation shall not run during the time respondent is residing or practicing outside the jurisdiction of California. If, during probation, respondent moves out of the jurisdiction of California to reside or practice elsewhere, including federal facilities, respondent is required to immediately notify the board in writing of the date of departure, and the date of return, if any.

Respondent's license shall be automatically canceled if respondent's period of temporary or permanent residence or practice outside California totals two years.

Respondent's license shall not be canceled as long as respondent is residing and practicing as a physician assistant in another state of the United States and is on active probation with the physician assistant licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

13) Failure to Practice as a Physician Assistant – California Resident

In the event respondent resides in California and for any reason respondent stops practicing as a physician assistant in California, respondent shall notify the board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar days in which respondent is not practicing as a physician assistant.

All time spent in a clinical training program that has been approved by the board or its designee, shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a board ordered suspension or in compliance with any other condition or probation, shall not be considered a period of non-practice.

Respondent's license shall be automatically canceled if, for a total of two years, respondent resides in California and fails to practice as a physician assistant.

14) Unannounced Clinical Site Visit

The board or its designee may make unannounced clinical site visits at any time to ensure that respondent is complying with all terms and conditions of probation.

15) Condition Fulfillment

A course, evaluation, or treatment completed after the acts that gave rise to the charges in the accusation but prior to the effective date of the decision may, in the sole discretion of the board or its designee, be accepted towards the fulfillment of the condition.

16) Completion of Probation

Respondent shall comply with all financial obligations (e.g., cost recovery, probation costs) no later than 60 calendar days prior to the completion of probation.

Upon successful completion of probation, respondent's license will be fully restored.

17) Violation of Probation

If respondent violates probation in any respect, the board after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

18) Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the board, which may be adjusted on an annual basis. The costs shall be made payable to the Physician Assistant Board and delivered to the board no later than January 31 of each calendar year.

19) Modification or Early Termination of Probation

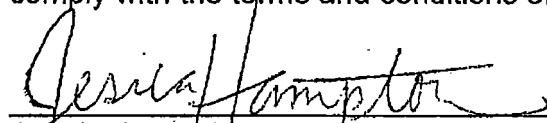
Respondent agrees to the term of probation length and agrees not to petition for or seek an early termination of the length of probation or modification of the terms of probation.

20) Voluntary License Surrender

Following the effective date of this probation, if respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may request the voluntary surrender of respondent's license to the board. The board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 days deliver respondent's wallet and wall certificate to the board or its designee and shall no longer practice as a physician assistant. Respondent will no longer be subject to the terms and conditions of probation and the surrender of respondent's license shall be deemed disciplinary action. If respondent re-

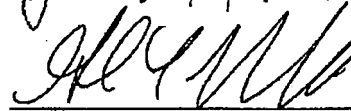
applies for a physician assistant license, the application shall be treated as a petition for reinstatement of a revoked license.

If adopted by the Board as noted in paragraph 8 above, applicant agrees to comply with the terms and conditions of the above Order.



Jessica Lynn/Hampton, Applicant

6/19/14
Date



Glenn L. Mitchell, Jr. Executive Officer
Physician Assistant Board

23 June 14
Date